

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

CATHRYN STOUT AND
RAYMOND MONTGOMERY

PLAINTIFFS

V.

CIVIL ACTION NO.: 3:13-CV-780-WHB-RHW

ALBERT SANTA CRUZ, COMMISSIONER
OF THE MISSISSIPPI DEPARTMENT OF
PUBLIC SAFETY, in his official capacity;
STAFF SARGENT BRAD VINCENT,
DIRECTOR OF CRIMINAL INTERDICTION/
K-9 OPERATIONS, in his official and individual
Capacities; UNIDENTIFIED TROOPER # 1,
in his official and individual capacities;
UNIDENTIFIED TROOPER # 2, in his
official and individual capacities

DEFENDANTS

**ALBERT SANTA CRUZ, COMMISSIONER OF THE MISSISSIPPI
DEPARTMENT OF PUBLIC SAFETY’S MOTION FOR JUDGMENT ON THE
PLEADINGS**

Defendant Albert Santa Cruz, Commissioner of the Department of Public Safety, in his official capacity (“Santa Cruz”), files his Motion for Judgment on the Pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure to dismiss the Complaint for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted and in support states:

1. This action was filed by Cathryn Stout and Raymond Montgomery (“Plaintiffs”) seeking declaratory and injunctive relief against Santa Cruz in his official capacity as the Commissioner of the Mississippi Department of Public Safety (“MDPS”)

and also for compensatory damages for alleged violations of their rights protected by the United States Constitution. *See* [Dkt. # 1] at 20, ¶¶ 82-84 and 85.

2. Santa Cruz submits that he is entitled to dismissal on all counts because: (1) the Plaintiffs lack standing to pursue claims for declaratory and injunctive relief against Santa Cruz and said claims are moot; (2) Santa Cruz is entitled to the immunity provided by the Eleventh Amendment to the Constitution of the United States regarding Plaintiffs' claims for compensatory damages; and (3) the Plaintiffs fail to state a claim against Santa Cruz upon which relief can be granted.

3. Santa Cruz has filed separately his Memorandum in Support of Motion for Judgment on the Pleadings and incorporates said Memorandum herein as if set forth in full. For the reasons more fully set forth in the Memorandum, and the arguments and authorities set forth, Santa Cruz requests that Court grant the Motion for Judgment on the Pleadings and dismiss the Complaint against him with prejudice.

Dated this the 3rd day of January, 2014.

Respectfully Submitted,

ALBERT SANTA CRUZ, COMMISSINER,
MISSISSIPPI DEPARTMENT OF PUBLIC
SAFETY, in his official capacity

BY: JIM HOOD, ATTORNEY GENERAL
STATE OF MISSISSIPPI

BY: /s/ Douglas T. Miracle
DOUGLAS T. MIRACLE, MSB # 9648
SPECIAL ASSISTANT ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
CIVIL LITIGATION DIVISION
Post Office Box 220
Jackson, Mississippi 39205-0220
Telephone: (601) 359-5654
Facsimile: (601) 359-2003
dmira@ago.state.ms.us

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing pleading with the Clerk of Court using the ECF system thereby serving the following persons:

Bear H. Atwood, Esq.
ACLU of Mississippi
P.O. Box 2242
Jackson, MS 39225-2242

Attorney for Plaintiffs

This the 3rd day of January, 2014.

/s/ Douglas T. Miracle
DOUGLAS T. MIRACLE